

**United States Court of Appeals**

Eleventh Circuit  
56 Forsyth Street, N.W.  
Atlanta, Georgia 30303

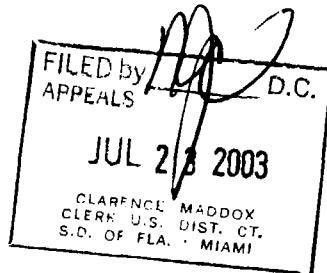
**Thomas K. Kahn**  
Clerk

InReplyingGive Number  
Of Case And Names of Parties

July 17, 2003

Clarence Maddox  
Clerk, U.S. District Court  
301 N. Miami Avenue  
Miami FL 33128

RE: 02-12352-AA USA v. Frederick J. Massaro  
DC DKT NO.: 00-06273 CR-PCH



Enclosed is a certified copy of an order remanding the referenced appeal for further proceedings.  
JURISDICTION OF THIS APPEAL IS BEING RETAINED BY THE ELEVENTH CIRCUIT.

The district court clerk is requested to acknowledge receipt on the copy of this letter enclosed to the clerk.

Sincerely,

THOMAS K. KAHN, Clerk

Reply To: Shirley Brown (404) 335-6170

Enclosures:

Volume(s) of Record

Box(es) of Exhibits

Envelope(s) of Exhibits

**LIMITED REMAND**

616  
H.J.

IN THE UNITED STATES COURT OF  
FOR THE ELEVENTH CIRCUIT

No. 02-12352-AA

APPEALS FILED
U.S. COURT OF APPEALS
ELEVENTH CIRCUIT
JUL 17 2003
THOMAS K. KAHN CLERK

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

FREDERICK J. MASSARO,  
ARIEL HERNANDEZ,  
ANTHONY TRENTACOSTA,  
a.k.a. Tony Pep

Defendants-Appellants.

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On Appeal from the United States District Court for the  
Southern District of Florida  
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BEFORE: TJOFLAT and CARNES, Circuit Judges.

BY THE COURT:

Appellee's motion to supplement the record on appeal is currently pending before the Court. In that motion, Appellee asks this Court to supplement the record on appeal with the tapes played to the jury at trial and the corresponding transcripts reviewed by the jury. Appellant Hernandez objects to this motion on the grounds that, because the Court Reporter failed to transcribe those tapes as they were played to the jury, this Court will be unable to determine what tapes were actually played, or to determine when during trial a specific tape was played to the jury.

To the extent that any of the tapes referenced by Appellee were actually played to the jury, such tapes should be part of the record on appeal. However, Appellant is also correct in that, without clarification as to what tapes were played and when, this Court will be unable to determine the proper state of the record on appeal.

Accordingly, on its own motion, the Court REMANDS this matter to the District Court on a limited basis for purposes of clarifying the record on appeal, and to determine, if possible, what tapes were played to the jury and when during trial they were played. The District Court is requested to act on this matter expeditiously.

Appellants Massaro's and Hernandez' motions for extension of time to file their reply briefs are GRANTED. Appellants' reply briefs will be due on July 28, 2003.

A True Copy - Attested  
Clerk, U.S. Court of Appeals  
Eleventh Circuit

By:   
Deputy Clerk  
Atlanta, Georgia